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BEFORE THE ARIZONA CORPORATION COMMISSION

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Commissioners

Arizona Corporation Commission

2003 MAR 26 A 11: 07

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MARC SPITZER,  
CHAIRMAN

JIM IRVIN  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
MIKE GLEASON

MAR 26 2003

AZ CORP COMMISSION  
DOCUMENT CONTROL

DOCKETED BY

IN THE MATTER OF QWEST  
COMMUNICATIONS INTERNATIONAL, INC.'S,  
QWEST SERVICES CORPORATION'S, AND  
QWEST CORPORATION'S NOTICE OF SALE,  
REQUEST FOR WAIVER, OR APPLICATION  
FOR APPROVAL OF THE SALE OF THE  
ARIZONA OPERATIONS OF QWEST DEX, INC.

DOCKET NO. T-01051B-02-0666

PROCEDURAL ORDER

**BY THE COMMISSION:**

On December 20, 2002, the Hearing Division of the Arizona Corporation Commission ("Commission") issued a Procedural Order setting forth the following schedule:

Qwest/Dex Holdings Direct Testimony	January 28, 2003
Staff/Intervenor Rebuttal Testimony	March 4, 2003
Qwest/Dex Holdings Surrebuttal Testimony	April 1, 2003
Staff/Intervenor Rejoinder	April 22, 2003
Pre-hearing Conference	April 29, 2003
Hearing Commences	May 6, 2003

The Department of Defense filed its initial testimony on March 3, 2003.

Late in the day on March 3, 2003, Commission Utilities Division Staff ("Staff") filed a Request for an Extension of Time to Continue Settlement Negotiations, in which Staff requested approximately two additional weeks, or until March 19, 2003, to file its testimony. Staff also proposed extending the hearing schedule a commensurate amount of time.

The Hearing Division contacted Qwest Corporation ("Qwest"), and Intervenor, the Residential Utility Consumer Office and Worldcom. No contacted party opposed to the request, as long as the continuance was not longer than the requested approximate two weeks.

On March 4, 2003, the Hearing Division issued a Procedural Order that granted Staff's

1 request and extended the entire remaining procedural by a little over two weeks.

2       Because of the timing of Staff's request, there was confusion in communicating Qwest's  
3 agreement to the extension request. On March 5, 2003, Qwest filed a Response to Staff's Request, in  
4 which it indicated that while indeed, Qwest had agreed to extend the deadline for Staff to file  
5 testimony for two weeks, it did not concur that the rest of the procedural schedule should be  
6 extended. Qwest requested that the other deadlines remain consistent with the schedule set forth in  
7 the December 20, 2003 Procedural Order. No party would be prejudiced under Qwest's proposal  
8 because, in essence Qwest was agreeing to a shortening of the time for it to prepare its surrebuttal  
9 testimony.

10       The Administrative Law Judge contacted Staff concerning Qwest's proposal and was  
11 informed that Staff agreed with the proposal. The Administrative Law Judge agreed to issue a  
12 Procedural Order that reaffirmed the original procedural schedule, except for the date of  
13 Staff/Intervenor testimony which was March 19, 2003.

14       RUCO filed its initial testimony on March 19, 2003, in conformance with the March 4, 2003  
15 Procedural Order.

16       On March 18, 2003, Staff filed a second Request for Extension of Time, seeking an additional  
17 two week extension. Staff stated that it and Qwest have had additional settlement discussions during  
18 the previous two weeks and believes that a settlement may be reached. Staff requested that the  
19 remaining dates in the procedural schedule be extended by two weeks.

20       On March 21, 2003, Qwest filed a Response to Staff's Request. Qwest states it does not  
21 oppose the request as long as negotiations continue between the parties. However, if settlement  
22 negotiations terminate, Qwest requests that Staff's testimony be filed the next business day. Qwest  
23 believes that a two week extension beyond the breakdown of settlement negotiations would prejudice  
24 Qwest. Qwest opposes extending the other procedural deadlines at this time, and requests that  
25 surrebuttal and rejoinder testimony and other deadlines be determined at such time as Staff files its  
26 rebuttal testimony.

27       The original hearing date was set with careful consideration of the needs and interests of the  
28 various parties, and has already been noticed to the public. Staff's unilateral decision not to file its

1 initial testimony pursuant to Procedural Orders and its request for a second extension has potentially  
2 prejudiced other parties. Staff's ability to engage in settlement negotiations is not foreclosed by  
3 having filed testimony. It is not clear at this time whether Qwest, or other parties, will have time to  
4 prepare responsive testimony to Staff's as yet unknown position. Even if Staff and Qwest are able to  
5 reach agreement, other parties, who it appears, may not be included in settlement negotiations, need  
6 time to conduct discovery and prepare testimony on any potential settlement. At this point, a May 6,  
7 2003 hearing date does not appear to be reasonable.

8 The Administrative Law Judge is concerned that all parties are treated fairly and have  
9 adequate time to prepare. Consequently, the procedural schedule is modified as follows:

10 Staff files its initial testimony no later than March 28, 2003.

11 Qwest files its surrebuttal testimony by April 18, 2003

12 Staff/Intervenors file rejoinder testimony by May 9, 2003

13 The schedule may have to be further modified in the event Staff and Qwest reach a settlement.  
14 Even if settlement negotiations are continuing as of March 28, 2003, Staff should file its initial  
15 testimony. Qwest has stated that the transaction for which it is seeking Commission approval has a  
16 drop dead date of December 15, 2003. The extension contemplated herein will not affect the  
17 Commission's ability to deliberate on this matter in time to meet Qwest's deadline.

18 IT IS THEREFORE ORDERED that as set forth in the March 4, 2003 Procedural Order, the  
19 hearing in this matter shall commence on **May 27, 2003 at 10:00 a.m.**, or as soon thereafter as is  
20 practical, at the Commission's offices, 1200 W. Washington, Phoenix, Arizona.<sup>1</sup>

21 IT IS FURTHER ORDERED that a pre-hearing conference for the purpose of scheduling  
22 witnesses shall commence on **May 21, 2003, at 10:00 a.m.**, or as soon thereafter as is practical, at the  
23 Commission's offices, 1200 W. Washington, Phoenix, Arizona.

24 IT IS FURTHER ORDERED that because pursuant to the December 20, 2002 Procedural  
25 Order, Qwest notified the public of the original hearing date, the hearing will convene on May 6,  
26 2003, at 10:00 a.m., at the Commission offices, 1200 West Washington, Phoenix, Arizona, for the

27 \_\_\_\_\_  
28 <sup>1</sup> The Commission's current hearing schedule prevents setting the matter for hearing earlier than May 27, 2003.

1 purpose of taking public comment on Qwest's application.

2 IT IS FURTHER ORDERED that the testimony schedule is modified as follows:

3 Staff initial testimony March 28, 2003

4 Qwest surrebuttal testimony April 18, 2003

5 Staff/Intervenors rejoinder testimony May 9, 2003

6 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized  
7 Communications) continues to apply to this proceeding as the matter is set for public hearing.

8 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive  
9 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

10 DATED this 23<sup>rd</sup> day of March, 2003.

11  
12  
13   
14 JANE L. RODDA  
15 ADMINISTRATIVE LAW JUDGE

16 Copies of the foregoing mailed/delivered  
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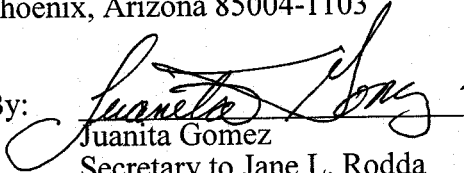
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